

25-4795

SECRET

Susannah 74

350

## OGC Has Reviewed

11 September 1954

MEMORANDUM FOR: Assistant Comptroller

SUBJECT : Longevity Awards to Foreign National and Native Employees of [REDACTED]

REFERENCE : Your Memorandum of 21 September 1954, and Enclosures Therewith

1. Your memorandum requested the opinion of this office as to the correctness of your view that the Comptroller had no authority to disburse funds for longevity awards to foreign national employees of [REDACTED] unless either (a) a policy decision as to the appropriateness of such awards was made, or (b) the Director of Central Intelligence individually approved each award. In part, you premise this view on your interpretations of 22 Comp. Gen. 563 (1942) and 10 Stat. 109, 5 U.S.C. 71 (1874), as well as upon the lack of any Agency regulations applicable to the matter.

2. Not only Section 71, of Title 5, of the Code, but also Sections 69 (R.S., Sec. 1764) and 70 (R.S., Sec. 1765) might be held to substantiate your position in the matter because all three provisions, in one way or another, militate against the payment to government employees of extra compensation or allowances, etc. However, these need not be considered in detail because we consider longevity awards to have been excepted from their prohibitions by Public Law 763 (83rd Cong., 2nd Sess., 68 Stat. 1116 (1954)). Section 304 of this statute authorizes the heads of agencies to:

"... incur necessary expenses for the honorary recognition of, civilian officers and employees of the Government . . . who perform special acts or services in the public interest in connection with or related to their official employment."

We believe that extraordinary lengths of service would constitute "special services" within the meaning of the law.

3. The cited Comptroller General's decision ruled against the disposal of federal real property, i.e., lands, tenements and hereditaments, by an agency head without the prior consent of Congress on the ground that unilateral disposal of such property transgressed the

91  
917

constitutional doctrine of separation of powers. The decision did not touch on the disposal of funds, or personal property; and we consider the facts and the law there involved to be sufficiently far removed from those of the instant situation as not to be controlling.

4. The matter of longevity awards for agency personnel is treated in [REDACTED] "Longevity Awards", dated 20 February 1953. The regulation referred to in your memorandum, Number 20-14, since has been rescinded. Two considerations militate against the granting of longevity awards to foreign national or native [REDACTED] employees under this regulation at this time. The first of these is that longevity awards are within the jurisdiction of the CIA Career Service Board; and this Board has not recommended the extension of longevity awards to aliens or contract employees who are not United States citizens. So much has been stated in the memorandum opinion from this office to AD/O, dated 29 January 1953, and the memorandum from the Career Service Board to AD/O, dated 25 May 1953, copies of both of which accompany your memorandum. The second consideration is posed by the wording of Paragraph 2 of Agency [REDACTED] which provides:

"Agency personnel who satisfactorily complete an aggregate of ten years service with CIA will be eligible for a longevity award. Additional service will be recognized at ten-year intervals. Service subsequent to 18 September 1947, is creditable for longevity award purposes." (Emphasis Supplied)

Under this regulation there can be no longevity award granted prior to 17 September 1957, thus, no longevity award can be granted to any employee of the Agency at this time.

5. From the above we would conclude that the granting of longevity awards to foreign national or native [REDACTED] employees is contingent upon the formulation of an appropriate policy in this regard. As to the issue of whether or not the Director must individually approve any longevity award which might be proposed consequent upon the formulation of an appropriate policy, we are of the opinion that such approval may be made for him either by the Deputy Director (Administration) or the Assistant Director for Personnel. In paragraph A-1 of "The Delegations of Authority by the Director of Central Intelligence", dated 1 December 1950, the DCI has delegated the "appointment, termination, direction and general administration of personnel" to the Deputy Director (Administration) (Emphasis Supplied). In paragraph C-1, of this same paper, it is stated that the powers delegated in paragraph A-1 may also be exercised by the Personnel Director or the Chiefs of his branches." To us, the approval of longevity awards would come within the meaning of the phrase "general administration of personnel" appearing in paragraph A-1 of this paper. Also indicative along this line is the fact that, under Agency [REDACTED] cited above, the responsibility for the administration of the longevity awards program is vested in the Assistant Director for Personnel.

STATSPEC

6. In sum, we agree with your view that the Comptroller has no authority to disburse sums for longevity awards to foreign national or native employees of [REDACTED] until a policy formulation as to the appropriateness of such awards has been made. However, granting the formulation of such a policy, it is our opinion that the approval of any given longevity award may be made on behalf of the Director by either the Deputy Director (Administration) or the Assistant Director for Personnel. For the sake of uniformity of administration, we would recommend the latter.

[REDACTED]  
Office of General Counsel

25X1A

OGC:HF:jk

Orig. - Addressee  
1 - Legal  
1 - Vital  
1 - Subject ✓  
1 - Signer  
1 - Chrono